

REMARKS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Claims 1-4, 6-11, 14, and 16 remain pending in the present application.

In the outstanding Office Action, Claims 1-2, 4, 6, 8-11, 14, and 16 were rejected under 35 U.S.C. § 103(a) as unpatentable over Jones et al. (U.S. Patent No. 7,099,510 B2, hereinafter “Jones”) in view of McGrath et al. (U.S. Patent No. 7,289,717 B1, hereinafter “McGrath”); Claim 3 was rejected under 35 U.S.C. § 103(a) as unpatentable over Jones in view of McGrath and Daly et al. (U.S. Patent No. 6,173,069 B1, hereinafter “Daly”); and Claim 7 was rejected under 35 U.S.C. § 103(a) as unpatentable over Jones in view of McGrath and Moghaddam et al. (“Probabilistic Visual Learning for Object Representation,” IEEE Transactions on Pattern Analysis and Machine Intelligence, Vol. 19, No. 7, July 1997, p. 696-710, hereinafter “Moghaddam”).

Independent Claims 1, 11, 14, and 16 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Jones in view of McGrath.

Initially, Applicants note that McGrath was not published prior to its date of patent, October 30, 2007. Meanwhile, the present application claims the benefit of priority to United Kingdom Patent Application No. 0227913.1, filed November 29, 2002, which is prior to McGrath’s publication date. Therefore, McGrath does not qualify as prior art under 35 U.S.C. § 102(a) and 35 U.S.C. § 102(b).

To the extent that McGrath is considered by the Office as a reference under 35 U.S.C. § 102(e), Applicants respectfully submit that McGrath and the subject matter recited in Claims 1-4, 6-11, 14, and 16 were commonly assigned or obligated to be assigned to Sony United Kingdom Limited at the time the claimed invention was made. Thus, under the safe-

harbor provision provided in 35 U.S.C. § 103(c), McGrath does not preclude patentability under 35 U.S.C. § 103. A formal statement of common ownership is provided below.

STATEMENT OF COMMON OWNERSHIP

The subject matter of McGrath and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

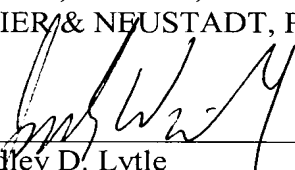
In view of the above-noted facts and based on M.P.E.P. § 706.02(1)(2) II, it is believed that common ownership of this application and McGrath has been established.

Accordingly, Applicants respectfully submit that under 35 U.S.C. § 103(c), McGrath is disqualified as prior art. Therefore, it is respectfully submitted that all the outstanding rejections based on McGrath are moot.

Consequently, in light of the above discussion, the present application is believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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